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AUTHOR Cornell, Dewey G.
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ABSTRACT

There are many practical difficulties in conducting forensic evaluations of adolescents charged with serious crimes. This paper addresses some of the reasons why adolescent forensic evaluations are problematic and suggests four strategies for establishing and maintaining rapport, based on a practitioner's experience in evaluating adolescents charged with rape, homicide, and other serious offenses. In interviewing adolescent defendants, the mental health professional is advised to: (1) review the purpose of the evaluation in detail; (2) clarify his or her role in the evaluation; (3) show respect for the adolescent; and (4) be as straightforward and upfront with opinions as possible. The paper notes that the key issue in most forensic evaluations is the defendant's account of the offense and cautions those conducting forensic evaluations never to settle for the adolescent's first account. Extreme denial, claimed amnesia, and attempts to disguise the offense are cited as three common characteristics of adolescents' accounts of offenses that can make it difficult to reconstruct what happened. (TE)

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# Clinical Issues in the Assessment of Adolescent Defendants

Dewey G. Cornell

Programs in Clinical and School Psychology

Curry School of Education

University of Virginia

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**Abstract**

There are many practical difficulties in conducting forensic evaluations of adolescents charged with serious crimes. This paper addresses some of the reasons why adolescent forensic evaluations are problematic and suggests 4 strategies for establishing and maintaining rapport, based on the author's experience evaluating adolescents charged with rape, homicide, and other serious offenses. Case examples illustrate three common characteristics of adolescents charged with serious crimes: extreme denial, claimed amnesia, and attempts to disguise the offense.

## Clinical Issues in the Assessment of Adolescent Defendants

The purpose of this paper is to address some of the clinical difficulties encountered in conducting court-ordered evaluations of adolescents charged with serious crimes. Forensic evaluations always pose special clinical issues for the psychologist, psychiatrist, or other mental health professional because they do not involve a traditional treatment relationship. The subject of the evaluation is not really a "patient" or a "client." In fact, the subject may be quite unwilling to participate in an interview. At the very least, the criminal defendant may be highly motivated to distort or misrepresent his (or her) offense history. These issues are addressed in detail by others (Melton, Petrila, Poythress, & Slobogin, 1987; Rogers, 1986).

However, much less attention has been given to the additional difficulties raised by the evaluation of an adolescent defendant. Juveniles may be evaluated for any number of legal purposes: transfer to adult court, competency to stand trial, criminal responsibility, or sentencing and/or treatment disposition (Benedek & Cornell, 1989). With the exception of transfer to adult court, all of these issues also apply to adult forensic evaluations. However, adolescents pose special challenges in the forensic evaluation and often require a different clinical approach. This paper will review some of the reasons why adolescent forensic evaluations are problematic and suggest 4 strategies for establishing and maintaining rapport, based

on the author's experience evaluating adolescents charged with rape, homicide, and other serious offenses. Finally, the paper will present several case examples to illustrate three common characteristics of adolescents charged with serious crimes: extreme denial, claimed amnesia, and attempts to disguise the offense.

## Evaluating Adolescents

Adolescents are often very tough to evaluate. They tend to be uncooperative and provocative, which of course is why many of you in graduate school made a career decision to avoid them and work with adults instead! Nevertheless, inevitably you will be referred adolescents for evaluation. Let's start at the beginning. Probably the best advice I can give you is to try avoid taking the case. Arrange to be out of town at a forensic conference on that day.

If you can't get out of town, try to get the case transferred to someone else. See if one of your colleagues will swap cases with you. Sometimes you have to swap two for one, or even three for one, but generally it's worth it. If all else fails, try to be sick on the morning of the evaluation.

Assuming you have decided to go through with it, let's go over some of the problems you will encounter. I think that one of the reasons adolescents are so frustrating and so difficult to evaluate is that it's so hard to establish rapport. It's hard to make contact with them, and to develop a feel for what they're thinking and feeling. Adolescent defendants usually have a very limited

repertoire of social skills. Their habitual ways of interacting with adults are limited to a few basic attitudes and strategies. Mostly this will involve denial of feelings and a passive avoidant response style. "I don't know." "It doesn't matter." "When can I go home?" This gives you minimal cues that you can use to adjust your approach and relate to the adolescent in a facilitative way.

Even when you think you've got things figured out and have gotten the interview off the ground, you can still run into problems. The level of functioning in adolescent defendants is often very uneven and unpredictable. They may be mature and knowledgeable in some ways but grossly immature in others. One adolescent knows everything about sex and drugs, but fumbles for words when it comes to talking about his family. Another adolescent is calm, cool, and confident until you ask him if he has a girlfriend, at which point he turns red and breaks into a sweat.

Consequently, when you interview an adolescent it's like walking through a mine field, never knowing when you are going to step in the wrong direction. This threatens our sense of clinical competence and makes the experience much less reinforcing and more adversive. With adults it is usually easier to zero in on an overall level of functioning and adjust our interviewing style and focus accordingly. Adults give us plenty of verbal and non-verbal cues that allow us to establish rapport; adolescent defendants give us very little to go on.

Here are some strategies I think are useful in interviewing

adolescent defendants. Bear in mind that the adolescent defendant will not readily distinguish you from the police officer or lawyer who has already asked them many of the same questions over and over again. Adolescents are even less tolerant of this experience than are adults. Adults may have some understanding of the need to have so many different people ask the same questions, but the more egocentric adolescent will be much less understanding. So one of your first clinical goals will be to develop a working relationship which distinguishes you from the other authority figures they have encountered.

1. Review the purpose of the evaluation in detail. The juvenile system is confusing enough for professionals, it will make even less sense to the adolescent, so at some point you may want to explain something about how the system works, and what will be happening next. Even if the adolescent says he knows why he's here and what it's about, take the time to have him express it in his own words. There are often misconceptions. It's common for adolescents to assume you are there to find out if they are crazy, whether they will go to jail, or even to decide which parent they should live with.

2. Clarify your role in the evaluation. You might need to explain a bit about the court system so that your role can be placed in context. It helps to be very explicit. At some point, I may say something like, "I'm not a cop. A cop wants to find out what you did so he can put you in jail. My job is different. The court has asked

me to talk to you because they want my opinion about what happened. I spend a lot of time talking to people who have gotten into trouble with the law and I want to understand what happened from your point of view. I want to know how you feel right now, and anything else you feel is important for me to know."

3. Show respect for the adolescent like you would an adult. You can greatly enhance your rapport with an adolescent defendant by treating him or her more like an adult. There are many automatic things we do in talking to a youngster that convey their juvenile status. It can be in the way we ask questions, in tone of voice, or in the way we gloss over introductions and explanations that we would spend more time on with an adult.

Also, adolescents are sensitive to their limited rights and privileges, so anything you can do to demonstrate respect for them as persons will facilitate the evaluation. I usually tell juveniles that this evaluation is an opportunity for them to have a say in what is going on. I emphasize that I am interested in their opinions, and not just what I heard from their parents or the police.

4. Be as straightforward and upfront with your opinions as you can. Fairly often an adolescent will say something like, "You probably think I'm crazy." This is not a time for analytic silence. I usually say something like, "No, I don't think you're crazy at all. It sounds like you were pretty mad about something, but I'm not sure why." Even if I think the adolescent may have been psychotic at the time of the offense, usually I can say something like, "You don't

sound crazy to me right now. I'm not sure what was going on with you when all this happened. Were you upset?"

With adults, you usually spend a few minutes establishing rapport, and usually you can maintain that rapport throughout the evaluation without too much direct attention. In contrast, with an adolescent rapport is an ongoing issue. You may spend half the interview working on issues of rapport. In extreme cases, you may spend an entire interview trying to make just a small gain in rapport and have to see them several times.

## The Account of the Offense

The key issue in most forensic evaluations is the defendant's account of the offense. Even if you are not doing an MSO or insanity evaluation, it is still important to know what happened. Especially when the adolescent has committed a serious crime such as homicide, the court will have a strong interest in your explanation of what happened and why. In many cases the MSO issues were clear-cut, but the judge and the attorneys were not satisfied. They wanted a psychological explanation of why someone so young would commit such a serious crime. Of course, no one has the ultimate answers to such questions, but it is useful if you can give a highly detailed account of what the adolescent did and what his motives and plans were like.

Never settle for the adolescent's first account of the offense. It is almost always incomplete, and the details which are omitted contain your most important clues to the defendant's mental state at

the time of the offense. Even if you cannot get the adolescent to describe his thoughts and feelings, have him give you a detailed, step-by-step review of everything he said and did on the day of the offense and immediately afterward. Adolescents are much more willing to tell you what they <u>did</u> than how they <u>felt</u>, but once you know what they did, you can go back over the offense again later and prompt them to tell you about their feelings.

The first time through the offense I am very passive and accepting of what the adolescent tells me. I do not confront the adolescent with inconsistencies of contradictions. As I go through the offense a second and third time, I try different strategies, and save my most confrontational approach for last. If I think the adolescent is not being truthful or not telling me the whole story, I am candid about it. I tell him or her that I don't think I'm getting the full story, or that something doesn't make sense to me. I repeatedly remind him or her that my job is to understand what happened, and that I can't do that if I don't know all the facts.

I want to mention three common characteristics of adolescent accounts of the offense which can make it difficult to reconstruct what happened: extreme denial, claimed amnesia, and attempts to disguise the offense.

<u>**Extreme Denial**</u>. Unfortunately, adolescents will often go to great lengths to make it as hard as possible for you to understand what they did or why they did it. Adolescents who have committed major offenses often deny and suppress their feelings to an extreme

degree. One adolescent I evaluated spent months with a crush on an attractive young woman who was a friend of his older sister. He was always eager to talk to her when she came by to see his sister. He frequently walked by her apartment, where he would just happen to see her and stop and talk. It was obvious to everyone in the family and to the woman that he had a crush on her. She made the mistake of being friendly to him and one day she invited him in to her apartment for a soft drink.

It almost sounds like the Summer of 42, except that later that night this youngster came back to her apartment wearing a mask, broke inside, and tried to rape her. In the middle of the assault, his mask came off, she realized who he was and called him by name. He dropped his knife, started to cry, and then ran away. After he was arrested he tried to deny ever going over to her apartment and insisted the woman made a mistake. Even after he admitted what happened, he insisted that he had no sexual feelings for the woman and never even thought she was pretty. Only by getting him to tell me his exact behavior before the offense, the times he saw the woman and his conversations with her, could I gradually get him to tell me how he felt.

This level of denial is not an indication of major mental illness, it is a common adolescent defensive reaction in extreme form. Adolescent offenders often have rigid defenses and very poor ability to tolerate, much less discuss, their feelings. They fall back on childish denial and similar reactions. Even when they are

confronted with the truth, they seem to have no alternative but to hold onto their denial. A few weeks ago we evaluated an adolescent girl who was stealing clothing and personal belongings from her foster mother. Even when her foster mother caught her wearing the clothes, such as a t-shirt from someplace the girl had never been, this girl still insisted the clothes belonged to her and not to the foster mother.

**Claimed Amnesia**. Another common reaction is claimed amnesia. Some adolescent defendants, and some adults as well, will claim amnesia for the offense. The adolescent rapist I just mentioned at first claimed amnesia for the offense. This might seem plausible if the adolescent was intoxicated. However, in my experience, most claims of amnesia are untrue, even if the adolescent was intoxicated. Nearly every adolescent I have evaluated who has claimed amnesia has later reported memory for at least some behaviors he at first denied. Some adolescents will hold back on the final act, such as pulling the trigger on the gun, but nearly everything else before and after the shooting is reported. I never give up after just one or two denials. Even if the adolescent gets a little irritated with me, I will come back to the topic several times. Most adolescents will give you a surprisingly detailed account if you are patient and persistent.

One strategy I take with amnestic defendants is to offer some interpretations of their resistance. With the adolescent who committed the rape, I told him that I knew he did not want to think about what happened, much less talk about it. I pointed out that

people often feel that if they don't remember what happened, that it will seem like they weren't so much to blame for what happened. I told him that it was not my place to decide blame, it was my job to try and understand what he was thinking and feeling when it happened. I can't do this if he won't tell me what happened from his own point of view. Eventually, he told me a complete account, adding details that were not in the police report, but which I was able to confirm when I interviewed the victim.

Disguising the Crime. Finally, I want to comment on the kinds of things adolescents do to cover up their crimes. Adolescents will go to great lengths to disguise the evidence or hide their involvement in the offense. Often this too reflects the adolescent's childish way of thinking and a surprising capacity to suppress his or her feelings after committing a crime.

I evaluated a 16 year old who murdered an abusive father. His father came home from work late one night and the boy shot him with a shotgun. The boy gave a very incomplete account to another psychologist conducting an independent evaluation. He told the other psychologist that he had a very hazy memory for what happened and did not know why he did it. He recalled sitting up late at night waiting for his father to come home. He ate two bowls of Captain Crunch cereal and watched a late night rerun of Friday the 13th. He said that the whole thing seemed like a bad dream. (Yes, California had the "twinkie defense," but Michigan almost had the "Captain Crunch defense.")

Because the boy had so little to say, the psychologist concluded that he suffered from "expressive dysphasia." Because the boy said the whole thing seemed like a dream, he was diagnosed as suffering from Depersonalization Disorder. Finally, the psychologist concluded that the Depersonalization Disorder indicated an unspecified "organic condition." In his report, the psychologist stated:

> Organic conditions often mimic functional conditions. The symtomatic depersonalization disorder appears to be reflective of an organic condition. Often implicated is the limbic system, a diffuse neural network located deep within the temporal lobes. Subcortical seizures in the limbic area have been described as leading to rage and attack actions usually with well coordinated motor control. The same dysfunction may produce altered states of awareness where impulse control is significantly impaired.

The psychologist went on to conclude that the adolescent suffered from "neurological impairment" and was not responsible for his behavior. The references to neuoanatomy sound impressive to the court and gave the impression of being highly scientific.

I should point out that at the time this psychologist wrote his report, he had reviewed reports from three psychologists, a neurologist, and a neurosurgeon. Extensive psychological testing revealed no evidence of neuropsychological problems. His neurological exam was normal, his EEG was normal, and his CT scan was normal.

The psychologist set asside findings that were plainly

contradictory to his opinion, probably because he could come up with no better explanation. He made the mistake of accepting an incomplete account of the offense and dreaming up a theory to fit it. Left without a basis for a psychological explanation, he turned to a biological one. Also, this suggests the possibility of professional denial and unwillingness to acknolwedge that adolescents can commit heinous crimes which are not a product of severe mental illness or brain damage.

In our evaluation at the Michigan Forensic Center, we spent three full days interviewing the defendant. We interviewed his mother, his best friend, and a detective who had interviewed him extensively. We reviewed all of the reports and test findings from all the other experts. We reviewed the police report and a very detailed description of the crime scene.

We obtained a very different picture of the defendant. He had a long history of aggressive and delinquent behavior. His parents were divorced and he had been sent to live with his father because his mother could not manage him. His father was involved in heavy drug use and had little to do with him. We questioned him extensively about child abuse, but he reported only one or two occasions when his father slapped him after an argument. He very much wanted to get away from his father, because his father was strict and made him go to school, but his mother would not take him back, and he had nowhere else to go.

Well in advance of the crime, he confided in his best friend, an

adolescent who lived next door. The two of them discussed various ways to kill his father and not be caught. Finally, they settled on a plan which the defendant carried out. He would shoot his father with a shotgun when he came home from work late one night. He told me that he was very nervous waiting for his father, and in order to keep up his courage, he smoked some his father's marijuana and watched a violent movie.

In fact, the boy remembered the murder quite well. He told me exactly where he stood and how far away his father was when he fired the gun. He told me what his father said as he lay dying on the kitchen floor. He asked for help several times, while the boy said nothing and quietly reloaded the gun. He recalled firing the gun again to finish killing his father. The information about the shooting corresponded very well with the autopsy report and the crime scene report, neither of which the boy knew about.

The boy and his neighbor friend concocted an elaborate plan to disguise the murder. These plans are often rather far-fetched, but they seem plausive to the adolescent. After killing his father, the boy dragged the body into the middle of the house, covered it with gasoline and kerosene, and made a fuse out of toilet paper that stretched through the house and out to the front porch. The idea was to burn the house down and destroy any evidence of what really happened.

There's more. In addition, the boy wrote a fake kidnapping note. The note was addressed to his father, and said that three men

had come to kill his father. When they did not find his father, the men decided to take the two boys and hold them for ransom. The note ended with a plea by the boy for his father not to come after them and to save himself from the three men. They left the note under a rock in the yard, lit the toilet paper fuse, and then drove off to Florida in the father's car. After two weeks the boy's friend became homesick and turned himself in to the police. At first he pretended that he had escaped from the kidnappers, but then broke down and confessed.

In these kinds of cases the boy's actions after the offense are just as important as the murder itself. His detailed planning before the offense and his actions after the offense are critical sources of information about his mental state and his motive for the offense. This adolescent was transferred to adult court and tried for first degree murder. After a lengthy trial and a parade of expert witnesses through the courtroom, the adolescent was convicted and sentenced to life in prison.

## Conclusion

In conclusion, by now you should be convinced not to let yourself get roped into doing forensic evaluations of adolescents. If by some misfortune, you end up evaluating a juvenile charged with a serious crime, bear in mind the over-riding importance of establishing and working to maintain rapport throughout the evaluation. Take the time to clarify your role in the court proceedings, and make an effort to communicate respect for the

adolescent's views. Be ready to face exceptional denial of feelings and be persistent when you encounter claims of amnesia and other forms of resistance. Finally, be sure to obtain a complete and detailed account of the adolescent's actions before, during, and especially after the offense, since this will reveal much more about the defendant's mental state and attitudes toward the victim than his or her first account would otherwise indicate. Good luck.

## References

Benedek, E. & Cornell, D. (Eds.) (1989). Juvenile homicide. Washington, D.C.: American Psychiatric Press.

Melton, G. B., Petrila, J., Poythress, N. G., & Slobogin, C. (1987). Psychological evaluations for the courts. New York: Guilford.

Rogers, R. (1986). Conducting insanity evaluations. New York: Van Nostrand.